

S.B. Civil Writ Petition No.6529/07
Nand Kishore Vs. State of Raj. & Ors.

27.08.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Ashwani Chobisa for petitioner.

Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 4.6.2007 whereby allotment of 4 bighas of bunjer land of khasra no.275 in Revenue Village Guda Devji, Tehsil Nainwa, District Bundi has been made to Jaipur Vidyut Vitran Nigam Ltd. for establishment of 33/11 KV GSS. The learned counsel for the petitioner argued that the petitioner is khatedar tenant of khasra no.276 and the land in question is adjacent thereto. The petitioner has been

cultivating this land since long and in fact the petitioner claims that he has been in possession of that land for last more than 40 years. The petitioner has placed on record copies of khasra no.276 measuring 1 bigha, 12 biswas, copies of khasra girdawari of the year 1991-92, 1992-93 and 1994-95 to show his cultivation over the said land. He has also placed on record copy of khasra girdawari of 2004-05. It has been contended that so long as the petitioner has from time to time deposited the amount of fine also in proceedings under Section 91 of the Land Revenue Act. The petitioner has applied for regularization of the land in dispute, but no order of regularisation has been passed. The learned counsel for the petitioner has

argued that the allotment of the land to JVVNL was made on the basis of incorrect statement submitted by the SDO concerned about the aforesaid land being vacant. The petitioner can be dispossessed only by due process of law.

I have heard the learned counsel for the petitioner and perused the material on record.

I find that the whole land of the petitioner in khasra no.276 which is adjacent to the land in dispute is only 1 bigha and 2 biswas. The petitioner claims to have cultivated the land of khasra no.276 which is four times larger than that measuring 4 bighas. It could be true that petitioner taking advantage of the fact that it lying vacant, cultivated the same in the year 1991-92, 1992-93 and

1994-95 and 10 years thereafter in 2004-05. But the report of the SDO about availability of that land on the ground and that it is Government land, cannot be said to be not in accordance with law. Besides, the character of the petitioner remained as that of a trespasser. Even if what he stated is accepted that he has deposited amount of penalty on certain occasions in pursuance to the orders passed in proceeding under Section 91 of the Land Revenue Act, that does not improve his status as that of a trespasser. In the circumstances, I do not find any merit in this writ petition.

The writ petition is dismissed accordingly.

(Mohammad Rafiq), J.

Rs/-